Supreme Court, U.S.
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No. 99-575

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2000

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MORETON ROLLESTON, JR. LIVING TRUST,ET AL,
Petitioners,

vs.

ESTATE OF REBECCA WIGHT CHERRY SIMS,
JOHN RANDOLPH CHERRY, EXECUTOR,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF GEORGIA

REPLY TO BRIEF IN OPPOSITION

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1.

The first ruling which placed an unlawful restriction on Interstate Commerce was the opinion of the Georgia Court of Appeals. Respondents challenged that ruling as soon as possible in their Motion to Reconsider (See page 4 and 5 of Petition for a Writ of Certiorari.)

2.

In Respondent's Brief in Opposition, Respondent made several references to the fact that some of the deeds from Rolleston to the Trust were recorded in 1995 after the jury trial and implied that was an error on the part of the Petitioners.

On February 27, 1995 Rolleston established the Moreton Rolleston, Jr. Living Trust by executing a trust document. To implement the Trust, on February 27,1995 Rolleston executed and delivered the deeds to all of his real estate in the presence of two witnesses, one of whom was a notary public. Under Georgia

law the deeds became valid and effective on February 27, 1995. Deeds to real estate in Georgia do not have to be recorded in order to transfer title.

> **O.C.G.A. 44-5-30** "A deed to lands must be in writing, signed by the maker and attested to by at least two witnesses. It must be delivered to the purchaser or his representative and be made on a good and valuable consideration.
>
> **Boyd vs. Sanders**, 148 Ga.839
> 98 S. E. 490
> "Valuable consideration is not necessarily required, a good consideration is sufficient."
>
> **O.C.G.A. 44-2-1**. "A deed may be recorded at any time."

Respondent's brief referred to Case No. D-81176 (A-1 in Respondents brief). D-81176 is not relevant to the issues in this case, but its inclusion in Respondent's brief illicits the following concise comment. A previous case brought by Coast House Ltd. against the Sims Estate included Rolleston as a defendant.

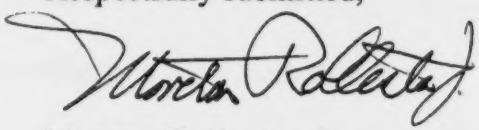
After the Georgia Supreme Court upheld all of Rolleston's Motions for Summary Judgment the first case was dismissed and refiled against the Sims Estate only as Case No. D81176. Coast House Ltd. obtained a judgment for $3,000,000 and levied on real estate worth $500,000 and agreed not to levy on the other assets of the Sims Estate if the Sims Estate would agree to file a malpractice suit against Rolleston. Coast House Ltd. agreed to pay all costs

and attorneys fees, with the provision that Coast House, Ltd. would be entitled to the first $3 million recovered in the suit against Rolleston. Such an agreement constituted champerty and barratry.

4.

All other issues raised by Respondent's brief are simply not pertinent to the issues included in the petition for writ of certiorari.

Respectfully submitted,



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